

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\*\*\*\*\*  
BANK OF THE WEST, )  
Plaintiff )  
v. )  
KATHERINE BEESLEY, )  
In Personam )  
AND )  
M/V DEFIANCE, her engines and )  
equipment )  
In Rem )  
Defendants )  
\*\*\*\*\*

CIVIL ACTION NO.:  
04 cv 10407 RGS

PLAINTIFF'S MOTION TO APPOINT SUBSTITUTE CUSTODIAN

NOW COMES the Plaintiff, Bank of the West, in the above entitled action, by its attorneys, Holbrook & Murphy, and respectfully moves this Honorable Court to allow the M/V DEFIANCE to be kept by Certified Sales of Mendon, Massachusetts, and that Certified Sales be appointed as substitute custodian thereof for the following reasons:

1. Certified Sales maintains a facility at Mendon, Massachusetts where the vessel can be provided a suitable location to ensure its security and safety. The vessel is on a trailer and can be moved safely and inexpensively from its current location in Beverly to Mendon.
2. The requirement of maintaining a keeper on board the vessel 24 hours a day would serve no useful purpose and would create a substantial expense that would lessen the security of the plaintiff and others who may intervene.

3. The substitute custodian would free a Deputy United States Marshal or keeper for other matters requiring his personal attention.

4. Certified Sales maintains adequate insurance coverage to protect the vessel for damages or loss while in its possession. Certified Sales is a disinterested party.

5. Plaintiff, Bank of the West, in consideration of the Marshal's consent to the substitution of custody, agrees to release the United States and the Marshal from any and all liability and responsibility arising out of care and custody of the defendant's vessel, her engines, tackle, apparel, furniture and all other necessities thereunto pertaining and belonging to said vessel over to said substitute custodian.

WHEREFORE, the Plaintiff prays that Certified Sales of Mendon, Massachusetts be appointed Substitute Custodian forthwith.

**BANK OF THE WEST**

By its attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand) on 3-19-04

